



VERDICT AT CORONER'S INQUEST

File No.: 2007-0270-1244

An Inquest was held at the Coroner's Court, in the municipality of Burnaby

in the Province of British Columbia, on the following dates Sept 15 and 16, 2009

before Scott Fleming, Presiding Coroner,

into the death of Daniel SERBEH, 26 (Age) Male Female

and the following findings were made:

Date and Time of Death: 7 December, 2007 0448 Hours

Place of Death: 265 East Cordova Street Vancouver, B.C. (Location) (Municipality/Province)

Medical Cause of Death

(1) Immediate Cause of Death: a) Cocaine Intoxication DUE TO OR AS A CONSEQUENCE OF

Antecedent Cause if any: b) DUE TO OR AS A CONSEQUENCE OF

Giving rise to the immediate cause (a) above, stating underlying cause last. c)

(2) Other Significant Conditions Contributing to Death:

Classification of Death: Accidental Homicide Natural Suicide Undetermined

The above verdict certified by the Jury on the 16th day of September AD, 2009.

SCOTT FLEMING Presiding Coroner's Printed Name

Handwritten signature of Scott Fleming Presiding Coroner's Signature



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FINDINGS AND RECOMMENDATIONS AS A RESULT OF THE INQUEST INTO THE DEATH OF

FILE No.: 2007-0270-1244

SERBEH

SURNAME

Daniel

GIVEN NAMES

PARTIES INVOLVED IN THE INQUEST:

Presiding Coroner: Scott Fleming

Inquest Counsel: Rodrick MacKenzie

Court Reporting/Recording Agency: Verbatim Court Reporting

Participants/Counsel: Chief Constable - City of Vancouver: Catherine Kinahan

The Sheriff took charge of the jury and recorded 4 exhibits. Thirteen witnesses were duly sworn in and testified.

PRESIDING CORONER'S COMMENTS:

The following is a brief summary of the circumstances of the death as presented to the jury at the inquest. The summary and my comments respecting the recommendations, if any, are only provided to assist the reader to more fully understand the Verdict and Recommendations of the jury. This summary is not intended to be considered evidence nor is it intended in any way to replace the jury's verdict.

Cst. Bech of the Vancouver Police Department (VPD) was driving a police wagon during the early morning hours of December 7, 2007. He was dispatched to a location at East King Edward Avenue and Prince Albert Street in Vancouver to transport Mr. Serbeh to the Vancouver Jail after he had been arrested by VPD patrol officer Cst. Butterman and his partner Cst. McRae on a Criminal Code drug charge.

Cst. Bech spoke to the patrol officers about the circumstances of the arrest. A large volume of a formed, powdery substance, thought to possibly be cocaine, had been taken from Mr. Serbeh by the patrol officers during the arrest search. Cst. Bech testified that he conducted an additional search of Mr. Serbeh prior to putting him into the police wagon. No contraband or illicit drugs were found. Mr. Serbeh was described as cooperative and polite throughout his dealings with Cst. Bech. A jail booking document known as the "Jail 8" form was completed by the arresting officers and reviewed by Cst. Bech. Given the circumstances of the arrest, Cst. Bech added additional information to the Jail 8 form indicating that illicit drugs had been located on Mr. Serbeh during the arrest search.

Mr. Serbeh was transported to the Vancouver jail at 275 E. Cordova Street. He was searched before entering the jail by Cst. Bech and then transferred to the jail guards for further processing. Throughout his dealings with Mr. Serbeh, Cst. Bech had no reason to suspect that he had additional illicit drugs in his possession, nor that he had possibly swallowed a stash of illicit drugs. Had he become aware of this occurring, Cst. Bech testified that he would have called for immediate medical support.

Cst. Butterman and Cst. McRae each testified that they initially had their attention drawn to Mr. Serbeh's vehicle while on routine patrol as a result of the actions taken by it after passing the marked police vehicle. Subsequent police investigations determined that Mr. Serbeh was involved in illicit drug activity and was the subject of court ordered conditions as a result of a prior arrest. The patrol officers returned to the location where Mr. Serbeh had earlier pulled over to the side of the road and observed him now seated in the passenger side of the vehicle.

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Mr. Serbeh exited the vehicle and was subsequently search and arrested after being found in possession of a large quantity of a drug like substance. The search conducted at the roadside failed to locate any other contraband material. During their entire dealings with Mr. Serbeh both officers described him as being polite and cooperative. Neither officer had any reason to suspect that any illicit drugs had been ingested by Mr. Serbeh based upon their dealings with him.

Cst. Butterman testified that he was shocked to subsequently learn of Mr. Serbeh's death while in the Vancouver jail. As a result of his experience in this case, Cst. Butterman testified that in all drug arrests which he now makes he tells the suspect that if he or she has swallowed illicit drugs, to tell him now, as the last person he dealt with that swallowed their illicit drugs, died as a result.

Special Csts. Hamilton and Mason were both jail guards at the Vancouver jail at the time of Mr. Serbeh's arrival. They testified that because the circumstances of Mr. Serbeh's arrest involved a significant quantity of illicit drugs being found in his possession, a full strip search was approved by the jail supervisor prior to Mr. Serbeh being admitted to jail. They each testified as to the conduct of this strip search and that no weapons or drug contraband were found in Mr. Serbeh's possession.

Both of the jail guards recalled Mr. Serbeh expressing concern about the effect of this arrest on his immigration status in Canada and his desire to remain in the country. Mr. Serbeh was described as friendly and easy-going throughout his dealings with the jail guards. Neither of the guards that conducted the strip search had any reason to suspect that Mr. Serbeh had ingested a stash of illicit drugs, nor did he ever volunteer that information to them. They testified that had the Jail 8 form indicated a suspected drug stash ingestion that they would have immediately referred him to the jail nurse for assessment and transport to hospital if approved by the jail Sargeant.

Jail guard Mason testified that he took Mr. Serbeh to the male washroom after the strip search. Another jail guard returned Mr. Serbeh to his cell. Both jail guards Mason and Hamilton testified as to the periodic checks that they made on Mr. Serbeh in holding cell 133 before he was discovered in distress by jail guard Mason at 0420 hours.

Special Cst. Doll was a jail guard on security duty. He testified that he also made a check of Mr. Serbeh in holding cell 133 and found him awake and talking at 0257 hours. He testified that he observed the emergency response after Mr. Serbeh was found in medical distress and that it was conducted with appropriate urgency.

Special Cst. Peters was a jail guard on duty in the hotel unit of the Vancouver jail. He took Mr. Serbeh back from the washroom to cell 133 at 0229 hours, and again checked on him in at 0235 hours. During their interactions with Mr. Serbeh, neither of the two jail guards observed any signs of impairment nor did they have any reason to suspect that he had ingested any illicit drugs.

Special Cst. Cardinal-Mitchell was the Vancouver jail supervisor at the time of Mr. Serbeh's admission. She testified as to jail procedures and her role in supervising the jail guards. She testified that a full strip search of Mr. Serbeh was approved by her due to illicit drugs being found on Mr. Serbeh during his arrest. She further testified that no weapons or illicit drugs were found in Mr. Serbeh's possession as a result of the jail searches. She testified that if the Jail 8 form indicated that the prisoner was suspected of ingesting a drug stash, the prisoner would be fast-tracked to see the nurse once the strip search had been completed.

The jail supervisor testified as to the use of the numerous surveillance cameras at the Vancouver jail, and how they are monitored. The camera in the male washroom which Mr. Serbeh used was not monitored, but simply



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recorded, because of prisoner privacy concerns and the fact that only one prisoner could be in the washroom cell at any time. If Mr. Serbeh had been suspected of having ingested illicit drugs he would have been accompanied by a jail guard in the washroom. She further testified that guards are trained to ask, in a conversational way, if the prisoner has "anything onboard" during the strip search procedure. In her experience, prisoners are typically more forthcoming about disclosing their ingestion of illicit drugs when they are alone with the jail nurse. Current procedures now require that jail guards be present with the prisoner and the jail nurse during the nursing assessment.

The jail supervisor first dealt with Mr. Serbeh when she let him out of his cell to get a drink of water. Her attention was next drawn to him during the course of the emergency response, at which time she attended cell 133 to assist the two jail nurses.

Mr. Foster, an advanced support emergency paramedic, testified as to his attendance at the Vancouver jail during the early morning hours of Dec 7, 2007 and his emergency resuscitative efforts. Despite the efforts of all emergency first responders, Mr. Serbeh was declared deceased at 0448 hours after Mr. Foster received this order from an emergency physician at Vancouver General Hospital.

Dr. Charles Lee, the forensic pathologist that conducted the subsequent autopsy, testified that the cause of death was acute cocaine intoxication. Postmortem toxicological analysis determined that Mr. Serbeh had a blood cocaine level of 15.1 ug/mL. Dr. Lee testified that during his examination of Mr. Serbeh's stomach contents he located a ruptured small plastic bag, tied at the end, that had likely contained a significant amount of cocaine. This bag ruptured in Mr. Serbeh's stomach, and the cocaine was absorbed into his bloodstream, causing an acute cocaine intoxication and Mr. Serbeh's sudden death.

Special Cst. Chua was the guard at the Vancouver jail in-charge of monitoring the many cameras at the jail. He described his role in monitoring the cameras, and remotely opening the various jail doors. He confirmed that the male washroom that Mr. Serbeh used was not routinely monitored, but could be monitored if a special concern was raised by a jail guard. No such concerns were raised with respect to Mr. Serbeh's use of the washroom. He testified that specific cells are available with continuous monitoring for prisoners that are known to have ingested illicit drugs, or who are at risk of harm to themselves.

Sgt. Frame, the VPD officer in charge of the Vancouver jail at the time of Mr. Serbeh's death, testified as to jail policy and procedures. Recorded videotapes of the various areas in which Mr. Serbeh was present at the jail were played for the jury and described by Sgt. Frame. The videotape of the washroom showed Mr. Serbeh attempting to induce vomiting before he appears to have noticed the camera. He then attempts to hide his head and upper body from the camera while bending over the toilet.

Sgt. Frame testified that had jail guards seen what Mr. Serbeh had done in the washroom, they would have immediately removed him and had him seen by a nurse after undergoing a strip search. Similarly, if the Jail 8 form had indicated that Mr. Serbeh had ingested an illicit drug stash, he would have been seen by a nurse. He testified that any changes in procedure that would allow for a prisoner, arrested on a possession for the purposes of trafficking charge, to see a nurse before a strip search, would be very disruptive to jail procedures and would potentially negatively impact the effectiveness of the work of the jail nurses.

Sgt. Frame further testified that after carefully reviewing this case, it is his opinion that the only thing that might have prevented Mr. Serbeh's death is if he had taken some steps to tell the jail guards that he had ingested a large quantity of illicit drugs by swallowing them. There was simply no indication from Mr. Serbeh to the police or jail



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guards that he had swallowed his illicit drugs. He agreed with a suggestion that signage in prisoner holding areas, encouraging them to tell jail guards if they have swallowed illicit drugs, would possibly be helpful in encouraging voluntary disclosure. He also agreed that it might be helpful to make it a matter of policy that jail guards conducting strip searches be required to ask if there had been an ingestion of a stash of illicit drugs in those cases in which people have been arrested with a significant quantity of drugs.

Det. Symes of VPD Major Crimes testified that he conducted a complete investigation of the circumstances surrounding Mr. Serbeh's death. His investigations included interviews of those persons who Mr. Serbeh had come into contact with at the Vancouver jail, including both jail guards and other prisoners. He attended the autopsy and witnessed the recovery of the ruptured plastic bag that contained the cocaine. As a result of his investigations he was unable to determine when the drugs were ingested by Mr. Serbeh, but thought the most likely time was prior to Mr. Serbeh's first dealings with the VPD patrol officers, prior to his arrest.

As requested by the family of Mr. Serbeh, a letter written on their behalf was read to the jury by Inquest Counsel at the opening of the Inquest. The letter provided some historical background on the circumstances leading up to Mr. Serbeh's arrival in Canada and the circumstances leading up to his sudden estrangement from his family in Canada. The letter expressed the appreciation of the family for the work of the Coroner's office in bringing closure to the family, and as such, they would not be attending the Inquest.



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Pursuant to Section 38 of the Coroners Act, the following recommendations are forwarded to the Chief Coroner of the Province of British Columbia for distribution to the appropriate agency:

JURY RECOMMENDATIONS:

**TO: CHIEF CONSTABLE CHU
SUPT. PETIT
Vancouver Police Dept
2120 Cambie Street
Vancouver, B.C.
V5Z 4N6**

- 1) That signage be placed in areas of the Vancouver Jail that are visible to prisoners (Sally Port, Pre-holding cells, Search rooms, jail cells) to advise:
 - If you need medical assistance;
 - If you want to see a nurse;
 - If you have ingested anything that might cause harm;

to please tell jail guards or jail staff as we would rather take you to the Hospital than the Morgue.

CORONER COMMENT: The jury heard evidence from the Vancouver Jail Supervisor and other Jail Guards that having signage in the Jail warning prisoners of the danger of ingesting illicit drugs or other harmful items may well assist in encouraging voluntary disclosure from prisoners. This would result in the prisoner being assessed by a jail nurse immediately, and most likely result in an early transfer of the prisoner to hospital.

- 2) That training for jail guards include a requirement to verbally advise prisoners that medical and nursing staff are available, and if they have ingested any substance/object/contraband that may cause harm to themselves, to advise the jail guards or jail staff.

CORONER COMMENT: The jury heard evidence that it is already an "informal practice" of most Jail Guards to ask prisoners during the strip search if there are any dangerous items on their person or if there is anything "onboard" that may cause injury. Rather than having this remain as an informal practice of some Jail Guards, the jury has recommended that the practice be made part of Jail Guard training and policy.

- 3) That Vancouver Police officers be trained as to the dangers of ingesting substances/drugs and that they ask suspects if they have done so at the time of their initial dealings with them and/or during arrest.

CORONER COMMENT: The jury heard evidence that asking suspects about drug stash ingestion is often the "informal practice" of VPD patrol officers when making an arrest for possession of a significant quantity of illicit drugs, but such questioning is not a formal part of police training. Several witnesses testified as to the importance of early medical intervention in cases in which drug stashes have been ingested.